

# **GAS CAP LAW**

## **Key Messages**

- No one knows what the overall impact of the gas cap law will be since this is the first time any state in the nation has attempted to control gasoline prices and to artificially regulate a world commodity.
- The Administration is closely monitoring the impact of the gas price cap law daily.
- There is a hotline (see below) in bold.
- The Administration believes, and experts and economists agree, the gas cap is a bad idea that could lead to higher prices at the pump or worse – gas shortages.
- The law (Act 242) says: “It should be clearly understood that the objective of this Act is not to guarantee lower gasoline prices.”
- Never before has an administration and agency like the PUC worked so hard and diligently to implement a law we felt so strongly will not work.
- Those that oppose the gas price cap bill should contact their legislators, especially those who voted for the bill.
- The Governor hopes she is wrong about the gas price cap law and that the Legislature is right. She hopes the cap will lead to lower gasoline prices for consumers...but just does not believe it will work.

## **Gas Price Cap History**

- The original gas cap law (Act 77) was passed in 2002 and signed into law by then Gov. Cayetano.
- In 2004, the Legislature amended the law to extend the effective date from July 2004 to Sept. 1, 2005. Governor Lingle allowed the bill to go into law without her signature. It became Act 242.
- In the 2005 legislative session, Governor Lingle proposed a repeal of the gas cap law, however it was not heard by the Legislature.
- On September 1, 2005, Act 242 (the gas cap law) went into effect.
- Under Act 242, the cap only applies to wholesale prices; gas station owners and operators can charge whatever they want.
- The gas cap price, an average of Los Angeles, Gulf Coast and New York Harbor prices, comes out every Wednesday and goes into effect the following Monday, thus resulting in a price lag.
- Since Hawai'i prices are now tied to markets on the mainland that have no relationship to local market conditions (most of Hawai'i's crude oil comes from Asia and Alaska), consumers are now susceptible to more volatile prices at the pump. Everyone feels the negative impact from events that take place on the mainland that disrupt supply and demand, such as Hurricane Katrina and the recent refinery fire in California. This was not the case in the past, when Hawai'i prices were more insulated from price volatility on the mainland and remained reasonably stable.
- The Administration predicted that refineries would charge the maximum allowed under the cap to shield them from future uncertainties, when a lower gas cap could result in diminishing profits. However, there is no way to know if refineries are charging the maximum, since their prices are kept confidential.

(more)

- In the 2005 Legislative session, Governor Lingle proposed a bill to require gasoline wholesalers and oil companies to report their actual costs and wholesale prices, thus creating greater transparency in the industry. The public, equipped with better knowledge of the market and industry, could use this information to make informed, competitive fuel purchase decisions. The information would also invite real competition if the profit margins are large, and force lower margins if the current suppliers want to fend off new market participants.
  - The Legislature failed to hear the Governor's bill.
  - Governor Lingle will re-introduce this bill in the 2006 Legislative Session.

### **Governor's Emergency Powers**

- Under Act 242, the governor may suspend the cap, in whole or in part, if it is determined that the cap will cause a major adverse impact on the economy, public order, or the health, welfare, or safety of the people of Hawaii. It is then the responsibility of the Legislature to amend or repeal the bill either in a special session or in the next Legislative Session.
- The following are some examples of threshold mechanisms that could prompt the Governor to enact emergency powers to suspend the gas price cap law:
  - Major disruptions to gasoline supplies for essential and emergency service vehicles.
  - Shortages of fuel supplies for emergency back-up generators used by emergency and essential services facilities (e.g., hospitals, police stations, fire stations, and other related public safety facilities).
  - Curtailed delivery of gasoline in any of the zones resulting in shortages at the wholesale or retail level.
  - Substantial, abnormal quantities of bulk wholesale gasoline being exported to markets outside of Hawaii where wholesale prices are higher than the capped price.
  - Notification of the intent to close one or two of the refineries in Hawaii.
  - Reduction in supplies to jet fuel, which would affect operations of commercial airlines.
  - Shortages of fuel supplies experienced by any electric or gas utility.
- Note #1: There is no guarantee that prices will go down if law is suspended.
- Note #2: High prices alone are not enough of a reason for the Governor to suspend the law.

### **Administration Seeks Public Input**

- Consumer Advocate John Cole has set up a hotline and web site for consumers to express their concerns:

**Phone: 586-2769**

**Neighbor islands: 1-800-830-4295**

**Web address: [gascap.hawaii.gov](http://gascap.hawaii.gov)** (to fill out an online report)

- The Department of Business, Economic Development and Tourism (DBEDT) has set up a separate hotline for retailers:

**Phone: 586-2752**

**e-mail: [gasoline@dbedt.hawaii.gov](mailto:gasoline@dbedt.hawaii.gov)**